

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

GREGORY L. BROWN,

Petitioner,

v.

M. ATCHLEY, Warden,

Respondent.

Case No. [21-cv-02649-YGR](#) (PR)

**ORDER DISMISSING PETITION AS  
SUCCESSIVE**

Petitioner, a state prisoner, filed this *pro se* petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 challenging his 1995 conviction, and he also filed an application for leave to proceed *in forma pauperis*. In 1995, Petitioner was sentenced to fifty-six years to life in state prison, following his conviction of conspiracy to commit first degree murder and attempted first degree murder. Dkt. 1 at 1-2. The Court notes that Petitioner has filed previous petitions for a writ of habeas corpus with this Court, challenging the same conviction and sentence. *See* Case Nos. C 98-02013 MMC (PR), C 14-4497 YGR (PR), C 20-3405 YGR (PR). In Petitioner's first federal habeas action, Case No. C 98-02013 MMC (PR), Judge Maxine M. Chesney denied the petition on the merits. *See* Dkt. 28 in Case No. C 98-2013 MMC (PR). His two previous efforts to file a successive federal habeas petition in this Court were denied in 2016 (Case No. C 14-4497 YGR (PR)) and 2020 (Case No. C 20-3405 YGR (PR)). *See* 28 U.S.C. § 2244(b). In 2018, the United States Court of Appeals for the Ninth Circuit denied Petitioner's application for leave to file a second or successive habeas petition. *See id.*

**DISCUSSION**

The Court finds the present petition is another second or successive petition attacking the same conviction and sentence as Petitioner's prior federal habeas petitions. A second or successive petition containing new claims may not be filed in the district court unless Petitioner

1 first obtains from the United States Court of Appeals an order authorizing the district court to  
2 consider the petition. 28 U.S.C. § 2244(b)(3)(A). Petitioner has not done so. Accordingly, this  
3 petition is DISMISSED without prejudice to filing a new habeas action if Petitioner obtains the  
4 necessary order.

5 **CONCLUSION**


6 For the foregoing reasons, the petition is DISMISSED pursuant to 28 U.S.C. § 2244(b).  
7 Based solely on Petitioner's lack of financial resources, his application for leave to proceed *in*  
8 *forma pauperis* is GRANTED. Dkt. 6.

9 The Clerk of the Court shall terminate all pending motions as moot, including his motion  
10 for appointment of counsel (dkt. 4), and close the file.

11 This Order terminates Docket Nos. 4 and 6.

12 IT IS SO ORDERED.

13 Dated: May 6, 2021

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15 JUDGE YVONNE GONZALEZ ROGERS  
16 United States District Judge  
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